



April 13, 1999

Ms. Linda Wiegman
Supervising Attorney
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

OR99-0998

Dear Ms. Wiegman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 124043.

The Texas Department of Health ("TDH") received a request for "all documents regarding the audit of the Central East Austin Community Organization by TDH." We assume that you have released to the requestor portions of the information requested. You claim that one document is excepted from disclosure under section 552.107(1) of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You assert that "the document being withheld is a memo which was forwarded within a TDH program and contains legal advice and opinion from the program's assigned legal counsel, therefore this communication is protected under section 552.107(1)." Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. *Id.* at 5. When communications from attorney to client do not reveal the client's communications to the attorney, section 552.107 protects them only to the extent that such communications reveal the attorney's legal opinion or advice. *Id.* at 3. In addition, basically

factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.* We find that the information requested reveals attorney advice and opinion and, therefore, may be withheld under section 552.107.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

David Van Brunt Price

David Van Brunt Price
Assistant Attorney General
Open Records Division

DVP\nc

Ref: ID# 124043

Encl: Submitted documents

cc: Ms. Kayte VanScoy
The Austin Chronicle
P.O. Box 49066
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(w/o enclosures)